

1 IN THE UNITED STATES DISTRICT COURT

2 IN AND FOR THE DISTRICT OF DELAWARE

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4 CISCO SYSTEMS, INC., ) Civil Action  
5 Plaintiff, )  
6 v. )  
7 MOSAID TECHNOLOGIES INC., )  
8 Defendant. ) No. 10-687-GMS

9 - - -

10 Wilmington, Delaware  
11 Friday, November 2, 2012  
12 11:00 a.m.  
13 Telephone Conference  
14 - - -

15 BEFORE: HONORABLE GREGORY M. SLEET, Chief Judge

16 APPEARANCES:

17 JACK B. BLUMENFELD, ESQ.  
18 Morris Nichols Arsht & Tunnell LLP  
19 -and-  
20 ERIC R. LAMISON, ESQ.  
21 Kirkland & Ellis LLP (San Francisco, CA)  
22 STEVEN CHERNY, ESQ.  
23 Kirkland & Ellis LLP (New York, N.Y.)  
24 MICHAEL W. DE VRIES, ESQ.  
25 Kirkland & Ellis LLP (Los Angeles, CA)  
Counsel for Plaintiff

PHILIP A. ROVNER, ESQ.  
Potter Anderson & Corroon LLP  
-and-  
BRIAN A. ROSENTHAL, ESQ.  
Mayer Brown LLP (Washington, D.C.)  
STEVEN YOVITS, ESQ.  
Mayer Brown LLP  
(Chicago, IL)  
Counsel for Defendant

1                   THE COURT: Good morning, counsel. Who is on the  
2 line for Cisco this morning?

3                   MR. BLUMENFELD: Good morning, Your Honor. Jack  
4 Blumenfeld from Morris Nichols, along with Steve Cherny,  
5 Eric Lamison and Mike De Vries from Kirkland & Ellis.

6                   THE COURT: Good morning.

7                   For Mosaid.

8                   MR. ROVNER: Good morning, Your Honor. This is  
9 Phil Rovner from Potter Anderson. With me from Mayer Brown  
10 is Brian Rosenthal and Steven Yovits.

11                  THE COURT: Good morning.

12                  I think that's everyone. Right?

13                  MR. BLUMENFELD: That is everyone.

14                  THE COURT: Thanks for the joint status report,  
15 counsel.

16                  I am not going to detain you very long.

17                  Unless there is something we need to discuss in  
18 the narrative pages of the report, why don't we go straight  
19 to Exhibit A. Anything we need to talk about in the  
20 narrative pages?

21                  MR. ROSENTHAL: Your Honor, Brian Rosenthal on  
22 behalf of Mosaid. We were able to reach agreement on the  
23 deposition limits yesterday.

24                  THE COURT: That's good, because I wasn't going  
25 to talk about that anyway, counsel. But go ahead.

1 MR. ROSENTHAL: We just wanted to let the Court  
2 know that that is resolved.

3 THE COURT: Appreciate that, and the cooperative  
4 spirit I am seeing thus far. I know it won't last, but it's  
5 a good way to start.

6 MR. CHERNY: Your Honor, we don't have anything  
7 that we need to discuss in the matter, either.

8 THE COURT: Thanks, Mr. Cherny.

9 Let's go to Exhibit A. I am going to ask  
10 counsel for plaintiff, Mr. Blumenfeld, if you gentlemen  
11 would prepare this case management order.

12 MR. BLUMENFELD: We would be glad to do that,  
13 Your Honor.

14 THE COURT: The 13th would be a good day to have  
15 it in by, if not before. I will enter the order.

16 I am going to just adopt all of the dates,  
17 unless there is a need to amend anything that you have  
18 proposed, and fill in the blanks. I am going to adopt the  
19 dates that have been jointly proposed and fill in the blanks  
20 that have to do with the Court's schedule. Is that  
21 agreeable to everyone?

22 UNIDENTIFIED SPEAKER: Sure.

23 UNIDENTIFIED SPEAKER: Yes, Your Honor.

24 THE COURT: As well as the schedule you have  
25 suggested for the filing of any summary judgment motions

1       that I might approve, that is fine as well.

2                   Markman. We have ten patents in this case. Is  
3       that correct?

4                   UNIDENTIFIED SPEAKER: That's correct, Your  
5       Honor.

6                   THE COURT: So you are going to have to give me  
7       some idea of how much time we are going to need on the 28th  
8       of October beginning at 9:30 to handle our Markman.

9                   MR. ROSENTHAL: Your Honor, it's hard to say  
10      now. It really depends on how many terms are going to be at  
11      issue. Our expectation is that that number will be very  
12      low, even though we have a lot of patents. We know that  
13      that is the Court's practice.

14                   So we think that a half-day or maybe most of a  
15      day would be ideal.

16                   THE COURT: Okay.

17                   MR. CHERNY: Your Honor, I don't know, although  
18      we have had a good set of compromises so far, I am not so  
19      sure I am as optimistic about the number of terms at this  
20      point given the number of patents at issue. We know  
21      something about each other's position on some of these  
22      patents because we spent some time in the ITC together on  
23      these patents. But others we don't. I think that we  
24      probably need at least a day. And given the number of  
25      patents there might be some prudence in putting aside as far

1 as the next day. But I know the Court tends not to spend a  
2 huge amount of time on these hearings. It's just we have  
3 got a lot of patents. Obviously, it is in all of our  
4 interests if we don't have a whole lot of disputed terms to  
5 not take the Court's time up.

6 THE COURT: Understood. Why don't we, as  
7 indicated, start on the 28th at 9:30. I will set aside a  
8 day. I imagine that we will be able to get through it in a  
9 day. Should it come to pass that, for some reason, we are  
10 not as efficient or there is just the sheer number and  
11 volume of disputed elements creating the need for additional  
12 time, we will flex with it at that time.

13 MR. CHERNY: Thank you, Your Honor.

14 THE COURT: Proposed final pretrial order, if  
15 you would have that filed by the close of business on  
16 10/17/2014.

17 We will have a pretrial conference here in  
18 Wilmington on 10/31, beginning at 10:00. Then I am going to  
19 set this down for commencement of trial at 11/10/2014.

20 I am imagining that we should be able to get  
21 this matter to the jury, at least to the jury, in ten days.  
22 Does that sound reasonable, gentlemen?

23 UNIDENTIFIED SPEAKER: Yes, Your Honor.

24 UNIDENTIFIED SPEAKER: Yes, Your Honor.

25 THE COURT: I will set it down for a ten-day

1 jury trial.

2 Let's see. One other thing I think I wanted to  
3 discuss with you. Just bear with me a second.

4 Good. You do believe that referral at this time  
5 to a Magistrate Judge would be appropriate. So please just  
6 include language to that effect in the case management  
7 order. Counsel, they are now assigning ADR matters among  
8 themselves on a rotating basis. So I can't tell you any  
9 longer -- we are so flush with judicial resources here  
10 now -- who is going to end up being assigned.

11 In any event, please allow them to reach out to  
12 you. They will follow, I think, Judge Thyng's practice of  
13 understanding that you need to be some distance down the  
14 discovery road before you can have a meaningful conversation  
15 about the ADR process. Okay?

16 Counsel, is there anything else we need to talk  
17 about today?.

18 MR. ROSENTHAL: Not from Mosaid's perspective,  
19 Your Honor.

20 MR. CHERNY: Not from Cisco's perspective,  
21 either, Your Honor.

22 THE COURT: I think you in one or form or  
23 another have been in front of me before. So you know my  
24 dispute resolution process and my other nudges and things.  
25 So I am not going to bore you with all that stuff.

1                   Have a good weekend.

2                   (Counsel respond "Thank you, Your Honor.")

3                   (Matter concluded at 11:10 a.m.)

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5       Reporter: Kevin Maurer

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